

**FILED**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

APR 22 2004

LARRY W. PROPPES, CLERK  
COLUMBIA, S.C.

JACKSON LEWIS, LLP,

Plaintiff,

v.

ENERSYS, INC.,

Defendant.

:  
: CIVIL ACTION  
:  
: No. 3:04-1045-10  
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:

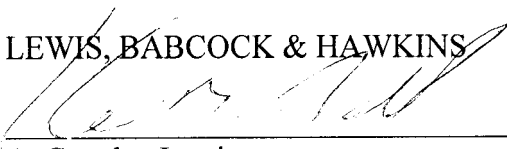
**DEFENDANT ENERSYS INC.'S MOTION TO DISMISS**

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, Defendant Enersys Inc., by and through its attorneys, hereby moves to dismiss Plaintiff's Complaint. As explained in the accompanying supporting memorandum, which is incorporated herein in its entirety, the Complaint should be dismissed because the Court lacks subject matter jurisdiction over this matter under the diversity jurisdiction statute, 28 U.S.C. § 1332. The parties are not diverse parties in that both Plaintiff Jackson Lewis, L.L.P., a limited liability partnership with partners who are citizens of Pennsylvania, and Defendant EnerSys Inc., a corporation with its principal place of business in Pennsylvania, are deemed citizens of Pennsylvania, for purposes of diversity jurisdiction. In the absence of complete diversity, this Court does not have jurisdiction over the subject matter.

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WHEREFORE, for the reasons stated herein and in the accompanying supporting memorandum, Defendant respectfully requests the Court grant its motion to dismiss Plaintiff's Complaint.

LEWIS, BABCOCK & HAWKINS



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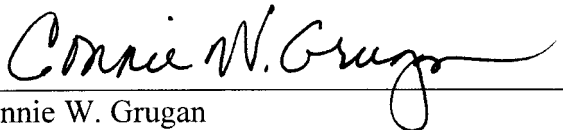
Date: April 23, 2004

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

JACKSON LEWIS, LLP,	)	Case No.3:04-1045-10
	)	
Plaintiff,	)	
	)	<b>CERTIFICATE OF SERVICE</b>
v.	)	
	)	
ENERSYS, INC.,	)	
_____ Defendant.	)	

I, Connie W. Grugan, secretary with the law firm of Lewis, Babcock & Hawkins, L.L.P., hereby certify that I have served **Defendant Enersys, Inc.'s Motion to Dismiss, Memorandum in Support of Its Motion to Dismiss, and Rule 26.01 Answers to Interrogatories** upon opposing counsel by mailing a copy of same, postage prepaid and return address clearly indicated on said envelope, to said opposing counsel at the following address:

R. Bruce Shaw, Esquire  
NELSON, MULLINS, RILEY & SCARBOROUGH, LLP  
Post Office Box 11070  
Columbia, South Carolina 29211

  
\_\_\_\_\_  
Connie W. Grugan

This 22nd day of April, 2004.